

JUDGE BRICCETTI

11 CIV 8450

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

RICHARD CARROLL NEAL,

Civil Action No. _____

Plaintiff,

v.

RJM ACQUISITIONS, LLC

Defendant.

CLASS ACTION COMPLAINT

JURY TRIAL DEMAND

COMPLAINT

INTRODUCTION

7/22/2011
22 MJD: 16
NY

1. This is an action for civil damages brought by individual consumers for Defendant's violations of the Fair Debt Collection Practices Act 15 U.S.C. § 1692, *et seq.* (Hereinafter referred to as "FDCPA").

JURISDICTION

2. The Court has proper jurisdiction over this matter pursuant to 15 U.S.C. § 1692k (d) and 28 U.S.C. § 1337.

VENUE

3. Venue in this Court is proper pursuant to 28 U.S.C. § 1331. The defendant has significant business contacts within the jurisdiction of this court and thus is subject to personal jurisdiction in this judicial district.

PARTIES

4. Plaintiff, Richard Neal (Hereinafter referred to as "NEAL"), is a natural person, at all times during the events of this action living in San Francisco, California. Plaintiff NEAL is a "consumer" pursuant to FDCPA.

5. Defendant, RJM Acquisitions, LLC (Hereinafter referred to as "RJM"), is a New York Domestic Limited Liability Company with a place of business at 575 Underhill Rd, Suite 224, Syosset, NY 11791. Upon information and belief, RJM is a purchaser and a collector of debt as defined by FDCPA.

FACTUAL ALLEGATIONS PARTICULAR TO PLAINTIFF NEAL

6. On or about July 2, 2011, a letter was received at the address 18 Susan Ct, Tuxedo, NY 10987 by David Shaun Neal, the brother of Plaintiff NEAL. ("Exhibit A").

7. On or about July 20, 2011, counsel for the Plaintiff sent correspondence to Defendant RJM requesting, *inter alia*, verification of the balance of debt and proof of ownership of the debt by Defendant RJM. ("Exhibit B"). No response has been received by Plaintiff NEAL or counsel for Plaintiff to date from Defendant RJM.

8. On or about September 6, 2011, counsel for the Plaintiff sent correspondence to Defendant RJM requesting a response from Defendant RJM to the correspondence dated July 20, 2011. ("Exhibit C"). No response has been received by Plaintiff NEAL or counsel for Plaintiff to date from Defendant RJM.

9. At no time has Plaintiff NEAL ever resided at 18 Susan Court, Tuxedo, NY 10987.

10. At no time has Plaintiff NEAL ever received mail at 18 Susan Court, Tuxedo, NY 10987.

11. At no time has Plaintiff NEAL ever applied for credit using the address 18 Susan Court, Tuxedo, NY 10987.

12. At no time has Plaintiff NEAL ever represented to any company or natural person that his residence address was 18 Susan Court, Tuxedo, NY 10987.

13. The residence located at 18 Susan Court, Tuxedo, NY 10987 was constructed by David Shaun Neal, brother of the Plaintiff NEAL in 2007. The residence is and at all times since its construction has been inhabited solely by David Shaun Neal, his wife and four children. It has never been inhabited by any other person since its construction.

14. Upon information and belief, Defendant RJM had no information to indicate that Plaintiff NEAL ever resided at 18 Susan Court, Tuxedo, NY 10987.

15. Plaintiff alleges that Defendant RJM caused mail to be delivered to an address which they knew was not the address of the Plaintiff, but rather a relative of the Plaintiff, in an effort to contact the Plaintiff by way of the relative of the Plaintiff.

16. Plaintiff alleges that the above conduct is in violation of 15 U.S.C. § 1692b which governs acquisition of location information about a consumer.

17. Plaintiff NEAL has no personal knowledge of having an “overdrawn wells fargo bank checking account” from July 26, 1995 or any other time. Defendant RJM has failed to provide any documentary evidence to establish the existence of same.

18. Upon information and belief, Plaintiff NEAL alleges that Defendant RJM has no assignable right to collect on any alleged amount owing of Plaintiff. Defendant RJM has failed to validate it's ownership or assigned interest in same.

AS AND FOR A FIRST CAUSE OF ACTION

Violations of FDCPA are brought by Plaintiff on behalf of himself and class

19. Plaintiff restates, re-alleges and incorporates herein by reference paragraphs 1 through 18.

20. This cause of action is brought on behalf of the Plaintiff and a class.

21. The class consists of all consumers contained in Defendant RJMs records who reside or did reside in New York State, and received a letter substantially similar in form to the letter received by

the Plaintiff at an address which they had never resided on a date from one year prior to the date of the filing of this action through the date of the filing of this action and for which Defendant RJM has no proof of the existence of the alleged debt and no proof of their assigned right to collect such alleged debt.

22. Pursuant to F.R.C.P. 23, a class action is preferable in this case because the letters are mass mailed so the joinder of all class members is impractical, there are questions of law and fact common to all class members, the claims of the Plaintiff NEAL are representative of the claims of all class members, the Plaintiff will fairly represent the class members and Plaintiff's counsel is knowledgeable in bringing actions for violations of FDCPA.

Violations of FDCPA

23. Defendant RJM violated 15 U.S.C. § 1692b by knowingly contacting a relative of the Plaintiff at an address which the Plaintiff has never resided at.

24. Defendant RJM violated 15 U.S.C. § 1692f by issuing a collection letter for an alleged debt not owed by the Plaintiff.

25. Defendant RJM violated 15 U.S.C. § 1692f by issuing a collection letter for an alleged debt it had no legal interest or claim of assignment to.

WHEREFORE, Plaintiff respectfully requests that this Court grant judgment against Defendant RJM in his favor and on behalf of the class for:

- A. Statutory and actual damages pursuant to 15 U.S.C. § 1692k,
- B. Attorney fees, expenses and costs incurred in connection with this action,
- C. Any further, additional or different relief which this Court deems just and proper

Plaintiff requests trial by jury on all issues so triable.

Coyne Legal Group, PLLC
Attorneys for the Plaintiff,
Richard Carroll Neal.

by:

Robert F. Coyne (RC4170)
Coyne Legal Group, PLLC
260 West 35th Street, #603
New York, NY 10123
(212) 505-7070
Email: Robert.coyne@coynelegalgroup.com

Dated: October 3, 2011

RJM Acquisitions LLC
 575 Underhill Blvd, Suite 224 752 1441 00199769
 Syosset, NY 11791-3416 874078
 1038233896 000014 RJMPN1070533
 [REDACTED]
 PERSONAL & CONFIDENTIAL

RJM Acquisitions LLC
 575 Underhill Blvd, Suite 224
 Syosset, NY 11791-3416
 Fax No. (516) 714-1310
 www.rjmcq.com
 Mon-Thurs 8am-7pm, Fri 8am-3pm
 July 5, 2011

1-800-644-8075
 Access Code # 134795271968

[REDACTED]

RICHARD NEAL
 18 SUSAN DR
 TUXEDO PARK NY 10987-3032

EXHIBIT A

Dear Richard Neal:

RJM Acquisitions LLC ("RJM") has purchased the following account:

RJM Purchased Your ► OVERDRAWN WELLS FARGO BANK CHECKING ACCOUNT
 WELLS FARGO ACCOUNT# ► 0335496691
 Your Social Security Number ► 045-7X-XXXX
 Balance Due ► \$272.60

OPPORTUNITY #1
SETTLE THIS ACCOUNT FOR \$190.82 (A 30% DISCOUNT)

You can settle this account with a lump sum payment of \$190.82, a 30% discount off the balance due of \$272.60.

OPPORTUNITY #2
SETTLE THIS ACCOUNT FOR \$218.08 (A 20% DISCOUNT) PAYABLE AT \$36.34 PER MONTH

If you can send \$36.34 per month, then you can settle this account for \$218.08, a 20% discount off the balance due of \$272.60.

OPPORTUNITY #3

RJM is pleased to accept \$18.17 per month until the balance due of \$272.60 is paid.

Please respond by August 19, 2011. When you finish paying, your account will be Satisfied in Full.

YOU CAN PAY BY: Check, Check by Phone, Money Order, VISA (Debit or Credit), American Express, MasterCard (Debit or Credit), WESTERN UNION QUICK COLLECT.

To pay this account over the phone, call 1-800-644-8075

This is an attempt to collect a debt. Any information obtained will be used for that purpose.

See back of letter for important information.

This communication is from a debt collector.

▼ Detach Here ▼

Re: RICHARD NEAL
 Please respond by August 19, 2011

▼ Detach Here ▼

WELLS FARGO ACCOUNT#0335496691
 Access code 134795271968
 RJM Toll Free 1-800-644-8075

[REDACTED]

Email Address: _____

PLEASE COMPLETE IF PAYING BY DEBIT/CREDIT CARD.



Card No. _____

Expiration Date: / / Amount: \$ _____

Cardholder Name: _____

Signature: _____

Back of Letter



IMPORTANT INFORMATION

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request of this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

New York City: License number 1250735. The name of the person to call back is Eileen Graham.

Account Information

Name and Address of the Original Creditor ► **WELLS FARGO**
S FARGO ACCOUNT# ► **PO BOX 6059**
Account was Opened ► **PORTLAND, OR 97208-8647**
Previous Address of Yours ► **0335496891**
Account was Closed ► **July 26, 1985**
New Address of Yours ► **1919 BURTON DR APT 180**
New City, State, Zip Code ► **AUSTIN, TX 78741-4246**
New Zip Code ► **78741**
New City, State, Zip Code ► **July 12, 1986**

WELLS FARGO has taken over many banks.

The following banks are now a part of
WELLS FARGO:

FIRST COMMUNITY NATIONAL BANK
PLAINS CAPITAL
FIRST NATIONAL BANK
FIRST NATIONAL BANK OF TEXAS
FIRST STATE BANK OF TEXAS

000 014

00199759

Access code 134795271968
Re: RICHARD NEAL
Account Balance: \$272.60

10

1

Check here if your address has changed.
Make changes above.

Email Address:

My name has changed to:

New Name

- ✓ Make your check or money order payable to RJM Acquisitions LLC.

RJM Acquisitions LLC
575 Underhill Blvd. Suite 224
Syosset, NY 11791-9827

- ✓ Write Access code
134795271968 on
your payment or
correspondence.

EXHIBIT B

RJM Acquisitions
575 Underhill Blvd, Suite 224
Syosset, NY 11791

July 20, 2011

RE: Richard Neal

Dear Counsel:

Please be advised that this office represents Mr. Neal in the above captioned matter. Your firm is directed to cease all communication with our client and direct all correspondence to our firm at the address listed above.

We are in receipt of your letter dated July 2, 2011, addressed to "18 Susan Dr, Tuxedo Park, NY 10987", a copy of which is attached.

Please provide the following documentation to this firm at the address above within 30 days of receipt of this letter:

- 1 – Statement of all charges and credits substantiating the "balance due" of \$272.60.
- 2 – A statement of the methodology used to determine the statute of limitations expiration date on this account.

3 – Proof of ownership of this alleged debt by RJM Acquisitions, LLC, including, but not limited to, any bill of sale, contract, title or other device of conveyance of title.

4 – Proof that RJM Acquisitions, LLC had reasonable grounds to believe that the alleged debtor at any time resided at “18 Susan Dr, Tuxedo Park, NY 10987”.

We look forward to your prompt and full response to the information request above.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert F. Coyne". A horizontal line extends from the end of the signature to the right.

Robert F. Coyne, ESQ
Coyne Legal Group, PLLC

RJM Acquisitions
575 Underhill Blvd, Suite 224
Syosset, NY 11791

September 6, 2011

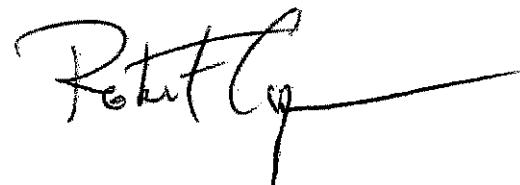
RE: Richard Neal

Dear Counsel:

We have not yet received a response to our correspondence of July 20, 2011, a copy of which is enclosed. If you do not hear from your firm within 5 days of your receipt of this letter, we will have no choice but to seek the appropriate remedies in a court of competent jurisdiction.

Your prompt and full response is anticipated and appreciated.

Sincerely,



Robert F. Coyne, ESQ
Coyne Legal Group, PLLC